

HOUSE BILL 573  
By Fowlkes

AN ACT to amend Tennessee Code Annotated, Title 34, Chapter 6; Section 37-1-140 and Section 49-6-3001, relative to the care and education of minor children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 34, Chapter 6, is amended by adding the following language as a new part:

Section 34-6-301. This part shall be known and may be cited as the "Power of Attorney for Care of a Minor Child Act."

Section 34-6-302. A parent or parents of a minor child may delegate to any competent adult person residing in this state temporary care-giving authority regarding the minor child, without the approval of a court, by executing a power of attorney in writing providing for the appointment. The power of attorney for care of the minor child shall be signed and acknowledged before a notary public by the parent. For purposes of this part the term parent includes a legal guardian or legal custodian of the minor child.

Section 34-6-303. The instrument providing for the power of attorney shall be executed by both parents, if both parents are living and have legal custody of the minor child. If only one (1) parent has legal custody of the minor child, that parent shall execute the instrument. The other parent must consent in writing to the appointment in the instrument or the executing parent shall explain in the instrument why the consent

cannot be obtained. If both parents do not execute the affidavit, the executing parent shall send by certified mail, return receipt requested, to the other parent at the last known address, a copy of the instrument and a notice of the provisions of § 34-6-305.

Section 34-6-304. Through the power of attorney, the parent may authorize the caregiver to perform the following functions without limitation: enroll the child in school and extracurricular activities; obtain medical, dental and mental health treatment for the child; provide for the child's food, lodging, housing, recreation and travel. Nothing contained in this section shall be construed to limit the power of the parent to either grant additional powers to the caregiver or limit any of the powers otherwise granted.

Section 34-6-305. The power of attorney does not affect the rights of the minor child's parent regarding the custody, care and control of the minor. The power of attorney does not provide legal custody to the caregiver.

Section 34-6-306. The appointment of the caregiver may be terminated by an instrument in writing signed by either parent with legal custody. The appointment of the caregiver may also be terminated by any order of a court of competent jurisdiction that appoints a legal guardian or legal custodian.

Section 34-6-307. The decision of a caregiver to consent to or to refuse medical, dental or mental health care for a minor child shall be superseded by any contravening decision of the parent having legal custody of the minor child, provided the decision of the parent does not jeopardize the life, health, or safety of the minor child.

Section 34-6-308. No person, school official or health care provider who acts in good faith reliance on a caregiver's authorization to enroll the child in school or to provide medical, dental or mental health care, without actual knowledge of facts contrary to those authorized, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance. This section shall apply even if medical, dental, or mental health care is provided to a minor child or the child is

enrolled in a school in contravention of the wishes of the parent with legal custody of the minor child, as long as the person, school official or health care provider has no actual knowledge of the wishes of the parent with legal custody.

Section 34-6-309. A person who relies on the power of attorney for care of a minor child has no obligation to make any further inquiry or investigation.

Section 34-6-310. Nothing in this part shall relieve any individual from liability for violations of other provisions of law.

Section 34-6-311. If the minor child stops living with the caregiver, the caregiver shall notify any person, school or health care provider that has been provided the power of attorney for care of a minor child.

SECTION 2. Tennessee Code Annotated, Section 37-1-140, is amended by designating the current language as subsection (a), and by adding the following new subsection:

(b) As an alternative to a parent or guardian transferring legal custody pursuant to this section or as otherwise provided by law, a parent or guardian may temporarily provide for the care of a child by executing a power of attorney for care of minor child, pursuant to, title 34, chapter 6, part 3.

The Tennessee Code Commission is requested to revise the catchline of Section 37-1-140, to reflect the amendment by this section.

SECTION 3. Tennessee Code Annotated, Section 49-6-3001(c) is amended by adding the following language as a new subdivision:

(6) Notwithstanding any other law to the contrary, a person designated as a caregiver with the power of attorney for care of a minor child, pursuant to, title 34, chapter 6, part 3, is authorized to perform all parental responsibilities in this section on behalf of the minor child, including but not limited to, enrolling the child in school.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.